

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROSS UNIVERSITY SCHOOL OF MEDICINE, LTD.,

Plaintiff,

- against -

BROOKLYN-QUEENS HEALTH CARE, INC. and
WYCKOFF HEIGHTS MEDICAL CENTER,

Defendants.
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09 Civ. 1410 (KAM) (RLM)

**DECLARATION OF JUSTIN H. ROEBER, ESQ. IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTIONS FOR PARTIAL SUMMARY JUDGMENT
AND TO PRECLUDE DEFENDANTS' EXPERT WITNESS**

I, Justin H. Roeber, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a member of the Bar of this Court and an associate with the law firm of K&L Gates LLP, attorneys for Defendants Brooklyn-Queens Health Care, Inc. ("BQHC") and Wyckoff Heights Medical Center ("Wyckoff") (together, "Defendants").

2. I submit this Declaration based on my personal knowledge in support of Defendants' opposition to Plaintiff's: (a) motion for partial summary judgment; and (b) motion to preclude Defendants' expert witness, both dated December 2, 2011.

3. Attached hereto as Exhibit 1 is a true and accurate copy of a document Bates-labeled BQHC 00489-00511, which Defendants produced during discovery in this action and which was marked as Exhibit 14 at the June 1, 2011 deposition of David N. Hoffman, Esq. (August 13, 2007 Administrative Services Agreement between BQHC, Caritas Health Care, Inc. ("Caritas"), Wyckoff, and FTI Cambio, LLC).

4. Attached hereto as Exhibit 2 is a true and accurate copy of a document Bates-labeled BQHC 00202-00204, which Defendants produced during discovery in this action (minutes from the April 3, 2008 meeting of BQHC's Board of Trustees).

5. Attached hereto as Exhibit 3 is a true and accurate copy of a document Bates-labeled BQHC 51946-51949, which Defendants produced during discovery in this action (minutes from the October 30, 2008 meeting of Caritas's Board of Trustees).

6. Attached hereto as Exhibit 4 is a true and accurate copy of a document Bates-labeled BQHC 00131-00142, which Defendants produced during discovery in this action (minutes from the June 5, 2008 meeting of Wyckoff's Board of Trustees).

7. Attached hereto as Exhibit 5 is a true and accurate copy of a document entitled "Expert Report of Elizabeth Kroger Davis," dated August 31, 2011, which Plaintiff served during discovery in this action.

8. Attached hereto as Exhibit 6 is a true and accurate copy of a letter dated October 26, 2011, from Plaintiff's counsel, George Tzanetopoulos, Esq., to Defendants' counsel Walter P. Loughlin, Esq.

9. Attached hereto as Exhibit 7 is a true and accurate copy of a letter dated September 26, 2011, from Defendants' counsel, Walter P. Loughlin, Esq., to Magistrate Judge Roanne Mann, which Defendants filed in this action (Dkt. No. 85).

10. Attached hereto as Exhibit 8 is a true and accurate copy of the transcript from the deposition of Anthony G. Duffy, taken in this action on November 3, 2011. The parties concluded fact and expert discovery upon taking Mr. Duffy's deposition.

11. Attached hereto as Exhibit 9 is a true and accurate copy of the transcript from the deposition of Elizabeth K. Davis, taken in this action on November 1, 2011.

12. Attached hereto as Exhibit 10 is a true and accurate copy of a document Bates-labeled BQHC 07617-07623, which Defendants produced during discovery in this action and which was marked as Exhibit 10 at the June 1, 2011 deposition of David N. Hoffman, Esq. (February 22, 2007 emails attaching a document entitled “Caritas Health Care Organization Period and Start-Up”).

13. Attached hereto as Exhibit 11 is a true and accurate copy of a document Bates-labeled Ross 008528, which Plaintiff produced during discovery in this action (December 22, 2006 email from Julius Romero to Dr. Thomas Shepherd at Ross with instructions to wire \$5,000,000 to a J.P. Morgan Chase bank account held by Caritas).

14. Attached hereto as Exhibit 12 is a true and accurate copy of a document Bates-labeled Ross 0538, which Plaintiff produced during discovery in this action (account statement for the period December 1-29, 2006 for a J.P. Morgan Chase bank account held by Ross, reflecting a payment made by Ross to Caritas of \$5,000,000 on December 28, 2006).

15. Attached hereto as Exhibit 13 is a true and accurate copy of a document Bates-labeled Ross 0539, which Plaintiff produced during discovery in this action (Ross transaction ledger entry for its December 28, 2006 “domestic money transfer” of \$5,000,000 to a J.P. Morgan Chase bank account held by Caritas).

16. Attached hereto as Exhibit 14 is a true and accurate copy of a document Bates-labeled Ross 0548-0549, which Plaintiff produced during discovery in this action (account statement for the period December 1-31, 2007 for a Chase bank account held by Ross, reflecting a payment made by Ross to Caritas of \$3,776,455 on December 5, 2007).

17. Attached hereto as Exhibit 15 is a true and accurate copy of a document Bates-labeled BQHC 03880-03894, which Defendants produced during discovery in this

action and which was marked as Exhibit 14 at the June 27, 2011 deposition of Harold McDonald (minutes from the December 20, 2007 meeting of Wyckoff's Board of Trustees).

18. Attached hereto as Exhibit 16 is a true and accurate copy of a document Bates-labeled Ross 002210, which Plaintiff produced during discovery in this action (November 30, 2007 email from Claire Mullally to Joseph Chu with instructions to wire \$3,777,645 to Caritas "for the Ross-Caritas Amendment" and to separately wire \$2,000,000 to Wyckoff "for the Ross-Wyckoff Amendment").

19. Attached hereto as Exhibit 17 is a true and accurate copy of a document Bates-labeled Ross 0551-0552, which Plaintiff produced during discovery in this action (records from a Chase bank account held by Ross, reflecting a \$3 million payment from Ross to a J.P. Morgan Chase account held by Caritas on February 28, 2008).

20. Attached hereto as Exhibit 18 is a true and accurate copy of a document Bates-labeled Ross 0553-0554, which Plaintiff produced during discovery in this action (Ross emails with instructions to wire \$3 million to Caritas on February 28, 2008).

21. Attached hereto as Exhibit 19 is a true and accurate copy of a document Bates-labeled Ross 0557-0558, which Plaintiff produced during discovery in this action (records from a Chase bank account held by Ross, reflecting a \$1 million payment from Ross to a J.P. Morgan Chase account held by Caritas on April 1, 2008).

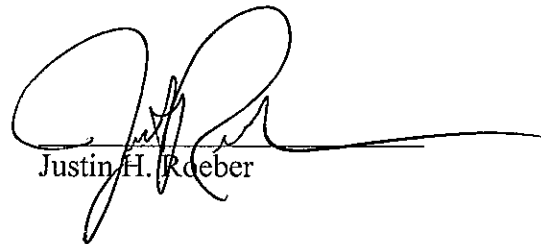
22. Attached hereto as Exhibit 20 is a true and accurate copy of a document Bates-labeled Ross 0559, which Plaintiff produced during discovery in this action (Ross emails with instructions to wire \$1 million to Caritas on April 1, 2008).

23. Attached hereto as Exhibit 21 is a true and accurate copy of a news article that appeared in the New York Times on November 29, 2011 (press report discussing the

potentially “sharp change for hospitals in Brooklyn” in light of policy recommendations before New York’s Department of Health).

I declare under penalty of perjury that the foregoing is true and correct.

Executed: January 10, 2012
New York, New York



Justin H. Roeber